

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KATHERINE ROI
WILLINGHAM, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARTHA M. WILLINGHAM,

Respondent-Appellant.

UNPUBLISHED

May 31, 2007

No. 274318

Wayne Circuit Court

Family Division

LC No. 02-407530-NA

Before: Cooper, P.J., and Murphy and Neff, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights under MCL 712A.19b(3)(i) and (l).¹ We affirm.

Respondent's parental rights to her two sons² were terminated in 2002 pursuant to MCL 712A.19b(3)(f), which allows termination after two or more years where children are in a guardianship and the parent, who has the ability to do so, fails to contact them and support them; the court first appointed a guardian for these children on April 1, 1992. Respondent and Katherine tested positive for cocaine after Katherine's birth and a petition for permanent custody was filed. Katherine entered foster care directly upon her release from the hospital at birth and respondent did not have a home for Katherine or provisions for her.

We find that the trial court did not clearly err, MCR 3.977(J), in finding that section (l) was established by clear and convincing evidence where the trial court took judicial notice of the

¹ Although the parties were confused regarding to the specific statutory grounds for termination, it is well established that "a court speaks through its written orders." *In re Gazella*, 264 Mich App 668, 677; 692 NW2d 708 (2005). The written termination order states that the trial court found that sections (i) and (l) were established with regard to respondent.

² Erik Willingham, DOB 11-13-88; Damon Willingham, DOB 8-26-90.

termination of respondent's parental rights to her sons under MCL 712A.19b(3)(f).³ We also find that the trial court did not clearly err in its best interests determination, MCL 712A.19b(5), where the main barrier to reunification was respondent's substance abuse. Although petitioner did not provide reunification services, petitioner provided respondent with a referral for a substance abuse assessment, and the foster care worker told respondent that she would help her get treatment. Respondent did not take advantage of either offer of assistance and was unable to complete the program she entered on her own. Respondent tested positive for cocaine during the pendency of the case, and she admitted to the use of cocaine since 1990. Because of respondent's long history of substance abuse, failure to take advantage of offers for assistance, and continued use during the pendency of the case, there was no indication that she would benefit from other services or be able to care for Katherine within a reasonable time. Therefore, the trial court did not clearly err in its best interests determination.

Respondent also argues on appeal that the trial court erred in terminating her parental rights where petitioner failed to offer reunification services and failed to make a record of its reasons to do so, as required by MCL 712A.18f(4). However, petitioner is permitted to seek permanent custody at the initial disposition hearing without offering reunification services, as it did here. MCL 712A.19b(4). Therefore, we find no error.

Affirmed.

/s/ Jessica R. Cooper
/s/ William B. Murphy
/s/ Janet T. Neff

³ The trial court clearly erred in finding that section (i) was established by clear and convincing evidence, because there was no evidence of attempts to rehabilitate respondent in the prior terminations; however, this error is harmless where only one statutory ground for termination need be established by clear and convincing evidence. MCL 712A.19b(3).